Calendar No. 735

99TH CONGRESS
2d Session

SENATE

REPORT
99-339

CONVEYING CERTAIN FOREST SERVICE LANDS TO THE TOWN OF PAYSON, AZ

JULY 25 (legislative day, JULY 21), 1986.—Ordered to be printed

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Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 565]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 565) to direct the Secretary of Agriculture to convey, without consideration, to the town of Payson, AZ, approximately 31.14 acres of Forest Service lands, having considered the same, reports favorably thereon with an amendment to the text and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike all after the enacting clause and insert in lieu thereof:

That notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed to convey, without consideration except for administrative costs associated with the preparation of title and legal description, to the Town of Payson, Arizona, a parcel of land comprising approximately 30.96 acres, known as North Rumsey Park, in the Town of Payson, County of Gila, Arizona.

SEC. 2. Title to any real property acquired by the town of Payson pursuant to this Act shall revert to the United States if the town attempts to convey or otherwise transfer ownership of any portion of such property to any other party or attempts to encumber such title, or if the town permits the use of any portion of such property for any purpose incompatible with the purposes specified in section 3 of this Act.

SEC. 3. Real property conveyed to the town of Payson pursuant to this Act shall be used for public open space, park and recreational purposes.

SEC. 4. There are reserved to the United States all minerals that may be found in the lands described in Section 1, together with the right of the United States, its permittees, lessees, or grantees, at any time, to prospect for, mine and remove such minerals.

2. Amend the title so as to read:

A bill to direct the Secretary of Agriculture to convey, without consideration, to the Town of Payson, Arizona, approximately 30.96 acres of Forest Service lands.

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PURPOSE OF THE MEASURE

S. 565, as reported, would direct the Secretary of Agriculture to transfer approximately 30.96 acres of National Forest System land in Gila County, Arizona, to the Town of Payson.

BACKGROUND AND NEED

S. 565, as reported, authorizes the transfer of 30.96 acres in the Tonto National Forest to the Town of Payson, Arizona without consideration.

The Federal lands involved in the transfer are part of a city park, known as North Rumsey Park. A special use permit issued to the town by the Forest Service authorizes use of 37 acres (of which the 30.96 acre tract is a part) for the park. That permit expires in 2005. The land adjoins 20 acres previously acquired by the town from a private party for park purposes. The park complex is located in the approximate center of town and is bounded on all four sides by privately owned land. Improvements with an estimated value of $100,000, including athletic fields, utilities, and restroom facilities, have been placed on the permitted area.

LEGISLATIVE HISTORY

S. 565 was introduced by Senator DeConcini on March 5, 1985. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on the bill on October 4, 1985.

At a business meeting on July 16, 1986, the Senate Committee on Energy and Natural Resources ordered S. 565, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on July 16, 1986, by unanimous vote of a quorum present recommends that the Senate pass S. 565, if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

COMMITTEE AMENDMENTS

The Committee amendment corrects the acreage to be conveyed to reflect a February 1985, Forest Service survey. The amendment provides for reversion to the United States if the land to be conveyed is not used for park and open space purposes or is proposed to be conveyed or transferred to a third party. The mineral estate would remain with the United States. The Town of Payson will bear the administrative and survey costs associated with the transfer. The acreage figure is also corrected in the title.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker	
Mr. Domenici	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans*	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Bradley*	
Mr. Bingaman*	
Mr. Rockefeller*	

* Indicates vote by proxy.

U.S. CONGRESS,
CONGRESSSIONAL BUDGET OFFICE,
Washington, DC, July 22, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 565, a bill to direct the Secretary of Agriculture to convey, without consideration, to the Town of Payson, Arizona, approximately 30.96 acres of Forest Service lands, as ordered reported by the Senate Committee on Energy and Natural Resources on July 16, 1986.

Based on information obtained from the Forest Service, CBO estimates that the federal government would not incur significant costs if this bill were enacted. Based on information from the Forest Service and the Town of Payson, Arizona, we estimate that the town would incur a cost of about $2,000 in 1987 for administrative and survey expenses. Otherwise, enactment of this bill would not affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred carrying out S. 565. The bill is not a regulatory measure in the sense of imposing Government-established standards or signficant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 565 as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth executive agency recommendations relating S. 565 is set forth below:

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 30, 1985.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, here is our response on S. 565, a bill "To direct the Department of Agriculture to convey, without consideration, to the Town of Payson, Arizona, approximately 31.14 acres of Forest Service lands."

The Department of Agriculture recommends that the bill not be enacted unless amended as recommended herein.

S. 565 would authorize the Department of Agriculture to transfer approximately 31.14 acres of National Forest System land in Gila County, Arizona, to the town of Payson. The conveyance would be made without consideration.

The Federal lands involved are a part of the Tonto National Forest. A special use permit issued to the town by the Forest Service in 1979 authorizes use of 37 acres (of which the 31.14 acre tract is a part) for a city park, known as the North Rumsey Park. This permit expires in 2005. The land adjoins 20 acres previously acquired by the town from a private party for park purposes. The park complex is located in the approximate center of the town and is bounded on all four sides by privately owned land. Improvements with an estimated value of $100,000, including athletic fields, utilities, and restroom facilities, have been placed on the permitted area.

We believe that conveyance of this tract to the town for use as a park is appropriate. Conveyance without consideration to the Federal Government is not appropriate. These reserved public domain lands are for the use and enjoyment of the entire Nation. The general public should benefit from the conveyance to the citizens of Payson. A fair remuneration is appropriate and equitable. In keeping with the President's direction that all conveyances of Federal land should be at fair market value, we recommend that the bill be amended to require payment of fair market value for the tract. A preliminary estimate of the value of the tract is approximately $118,000. This estimate recognizes sales and exchanges of similar land in the immediate area and considers the present and potential future use of the tract.

It should be recognized that adequate authority is available to convey the tract to the town. The Townsite Act (Act of July 31, 1958, as amended; 16 U.S.C. 478a) permits communities in the 11 Western States to acquire up to 640 acres of National Forest System land for community expansion upon payment of fair market value for the land. Other western communities have pur-

chased Federal land under this Act to provide or expand community services. Granting this land to the town of Payson would be unfair to those communities. Furthermore, the town purchased in May 1985 under this authority 12.16 acres of National Forest land, of which 6.08 acres lie within the permitted area. This land is to be used for park and other town purposes. In addition, the town was granted 1.1 acres of National Forest System land by Act of Congress on September 28, 1986 (Public Law 98–439). Application of the Townsite Act to the 31.14 acre tract would make S. 565 unnecessary.

Our recommended amendments are further described in the enclosed supplemental statement.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

Enclosure.

USDA SUPPLEMENTAL STATEMENT, S. 565

Recommended Amendments:

1. On lines 4 and 5, page 1, delete "without consideration" and insert "upon payment to the Secretary of Agriculture of an amount equivalent to the fair market value".

2. In the title and on line 6, page 1, change "31.14" to "30.96". A February 1985 survey by the Forest Service determined that there are 30.96 acres included in the parcel identified by S. 565.

3. Add a section 2 as follows:

> SEC. 2. Title to any real property acquired by the town of Payson pursuant to this Act shall revert to the United States if the town attempts to convey or otherwise transfer ownership of any portion of such property to any other party or attempts to encumber such title, or if the town permits the use of any portion of such property for any purpose incompatible with the purposes specified in section 3 of this Act.

4. Add a section 3 as follows:

> SEC. 3. Real property conveyed to the town of Payson pursuant to this Act shall be used for public open space, park and recreational purposes.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 565, as reported.

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